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PATENT APPLICATION  
Attorney Docket No.: 10251-077

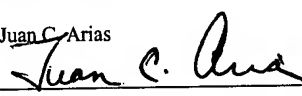
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of : Kenneth Radigan  
Serial No. : 10/689,787  
Filed : October 20, 2003  
Title : NUCLEAR DECOMMISSIONING  
INSURANCE FINANCIAL  
PRODUCT AND METHOD

**PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102 (d)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Juan C. Arias  
 January 5, 2005  
Signature

Sir:

This Petition pursuant to 37 C.F.R. § 1.102 (d) requests that this patent application be made special and advanced out of turn for accelerated examination. The Applicant requests that that the application be granted accelerated examination, and has complied with MPEP 708.02 VIII, including:

(A) Submitting this Petition and authorize the Commissioner to deduct the fee of \$130.00 under 37 C.F.R. § 1.17(i) in payment of this Petition from deposit account number 16-2500;

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(B) Respectfully submit that all claims, claims 1-19, are directed to a single invention, as acknowledged by the Examiner in deciding applicant's Petition to Make Special that was granted in the copending parent application Ser. No. 09/843,210, which has issued as U.S. Patent No. 6,772,128;

(C) A pre-examination search of the prior art has been performed by a professional patent search firm. The classes and sub-classes searched were:

<u>Class</u>	<u>Sub-Classes</u>
705	1, 4, and 35

In addition, a commercial online database search was conducted:

- (2) INSPEC (1969-present)
- (6) NTIS: National Technical Information Service
- (8) Ei Compendex®
- (9) Business and Industry™
- (15) ABI/INFORM®
- (16) PROMPT® (1990-present)
- (20) World Reporter
- (148) Trade & Industry Database™
- (160) PROMPT® (1972-present)
- (275) Computer Database™
- (613) PR Newswire
- (621) New Product Announcements/Plus® (NPA/Plus)
- (623) Business Week
- (624) The McGraw-Hill Companies Publications Online
- (636) Newsletter Database™
- (810) Business Wire (Archive)

Additionally, claims with related subject matter to the currently pending claims were examined by the PTO in the parent patent application 09/843,210, which has issued as U.S. Patent No. 6,772,128. According to the face of this patent, the Examiner searched PTO class 705, subclasses 1, 4, 7, and 36, and class 283, subclass 54.

(D) Based on the pre-examination search performed by a professional patent search firm, the following references are deemed most closely related to the subject matter encompassed by the claims:

1. "Decommissioning Nuclear Facilities," Nuclear Issues Briefing Paper 13, Uranium Information Centre Ltd.,  
<<http://www.uic.com.au/nip13.htm>>.
2. "Effects of Energy Deregulation on the Appropriate Method of Valuation of Generation Stations and Other Divested Property – Decommissioning," Office of Real Property Services, Section 12.1,  
<<http://www.orps.state.ny.us/sas/dereg/section12.htm>>

(E) A detailed discussion of each of the above references, which points out with the particularity required by 37 C.F.R. §1.111(b) and (c) how the claimed subject matter is patentable over said references follows.

1. "Decommissioning Nuclear Facilities" describes existing decommissioning finance methods, including "prepayment," where money is deposited in a separate account to cover decommissioning costs even before the plant begins operation. It is described that prepayment can be done in a number of ways; however, the funds cannot be withdrawn other than for decommissioning purposes. Further, the article describes the "external sinking fund (Nuclear Power Levy)," where funds are built up over the years from a percentage of the electricity rates charged to consumers. The proceeds are placed in a trust fund outside the utility's control. In addition, a "surety fund," "letter of credit," and "insurance" is mentioned, which is purchased by the utility to guarantee that decommissioning costs will be covered even if the utility defaults.

However, the "Decommissioning Nuclear Facilities" article does not describe or suggest a method for providing financial assurance for decommissioning, via an

insurance policy, having an insurer supply the insurance policy to a trust, in accordance with claims 1 and 12 of the present invention.

2. “Effects of Energy Deregulation on the Appropriate Method of Valuation of Generation Stations and Other divested Property – Decommissioning” describes two types of trust (qualified and non-qualified) funds that may be used to accrue money for decommissioning.

However, the “Effects of Energy Deregulation” article does not describe or suggest a method for providing financial assurance for decommissioning, via an insurance policy, having an insurer supply the insurance policy to a trust, receive the premium of the policy, and paying, by the insurer, the actual decommissioning costs to the trust, in accordance with claims 1 and 12 of the present invention.

(F) It should be noted that art cited during the prosecution of the parent application 09/843,210, was only cited as of record, and was not a basis for any rejection. See page 5 of the Office Action of March 14, 2003 in the parent application, which cites for the record the references cited in the present application in an Information Disclosure Statement of October 20, 2003 (copy attached). In that Office Action, the Examiner noted that:

- Fox teaches a method of determining a premium for a policy insuring against specified weather conditions.
- Underwood et al. teach a system for underwriting an excess casualty insurance policy.
- Roberts et al. teach a method for insuring the funding of a future liability of

uncertain cost.

- Warfel discloses federal reinsurance against catastrophic loss.
- Kurland discloses an overview of nuclear decommissioning expenses and providers of nuclear decommissioning insurance.
- Knowles discloses nuclear insurance policies.
- Prices discloses types of insurance provided in response to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) enforcement.

Additionally, along with a Notice of Allowance of March 9, 2004, the Examiner provided reasons for allowance of claims 20-28 of the parent application in which he stated that:

The primary reason for the allowance [of] the claims 20-28 is the inclusion of the limitation, in all the claims which is not found in the prior art references, of determining a premium of an insurance policy for decommissioning a nuclear power facility by the particular recited steps of determining a total monetary sum for a plurality of scenarios that are each based on the decommissioning starting on a different time schedule, and adjusting the monetary sum of each scenario so that they are each substantially equal. While the closest prior art (Kurland, *Risk Mitigation in the Atomic Age*) discusses several insurance providers that provide nuclear decommissioning coverage (see paragraph 35 as numbered by Examiner), it fails to disclose any particular method for determining a premium for such a policy. In addition, the article discloses estimating a cost for nuclear decommissioning that takes place on a particular date (see paragraph 27). However, there is no indication that this would be used to determine a premium for an insurance policy.

Additionally, Fox, U.S. Patent No. 4,766,539 teaches a method for determining a premium for an insurance policy against specified weather conditions (see column 2, lines 30-55). While this premium is determined based on predetermined time intervals in each of a predetermined number of years (see column 2, lines 30-36), this is only used to determine probabilities of weather conditions actually occurring. Whereas the time schedules recited in claim 20 are utilized to determine expenses that are inevitable to occur due to Nuclear Regulatory Commission requirements (see page 2, lines 7-13 of the Specification). Therefore, the claims distinguish over the teaching of Fox as well.


The references cited by the Examiner do not describe or suggest a method for providing financial assurance for decommissioning, via an insurance policy, having an insurer supply the insurance policy to a trust, in accordance with claims 1 and 12 of the present invention.

As noted above, applicants previously submitted an Information Disclosure Statement and form PTO-1449 on October 20, 2003. Attached is an additional Information Disclosure Statement listing the Dodson reference (WO 98/22899), that was made of record by the Examiner in the parent application on March 9, 2004. The Examiner noted that:

- Dodson teaches a system for producing products suited to different insurers to adequately avoid catastrophic losses.

It is respectfully requested that the Petition be granted and the application be given special status and be advanced out of turn.

Respectfully submitted,



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Reg. No. 38,732

Date: January 5, 2005

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Divisional of U.S. Ser/ No.: 09/843,210

Attorney Docket No.: 10251-077



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Kenneth RADIGAN  
Entitled: NUCLEAR DECOMMISSIONING  
INSURANCE FINANCIAL PRODUCT  
AND METHOD  
Divisional of  
Serial No.: 09/843,210  
Filing Date: April 26, 2001

**INFORMATION  
DISCLOSURE  
STATEMENT**

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Express Mail Mailing Label No. :

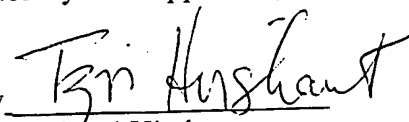
ET346994482US

Pursuant to 37 C.F.R. § 1.56 Applicant submits herewith a PTO-1449 form for the above-identified divisional patent application. The copies of the information listed on the PTO-1449 form are of record in the parent application Serial No. 09/843,210 the filing date of which is claimed herein under 35 U.S.C. 120. Therefore, additional copies need not be submitted.

Applicant requests this information be considered herein.

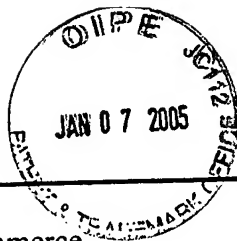
Respectfully submitted,  
PROSKAUER ROSE LLP  
Attorneys for Applicant(s)

By

  
Tzvi Hirshaut  
Reg. No. 38,732

Date: 20 October 2003

PROSKAUER ROSE LLP  
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Form PTO-1449 (Rev. 6-98)

U.S. Department of Commerce  
Patent and Trademark OfficeAttorney Docket No.  
**10251-077**

Serial No.

**INFORMATION DISCLOSURE  
STATEMENT**

(Use several sheets if necessary)

Applicant

**Kenneth RADIGAN**

Filing Date

Group Art Unit

**U.S. PATENT DOCUMENTS**

Examiner Initial	Document Number							Date	Name	Class	Sub Class
	4	7	6	6	5	3	9	8.23.88	Fox		
	5	8	7	3	0	6	6	2.16.99	Underwood et al.		
	4	8	3	9	8	0	4	6.13.89	Roberts et al.		

**FOREIGN PATENT DOCUMENTS**

Examiner Initial	Document Number	Date	Country	Class	Sub Class	Translation	
						Yes	No

**OTHER DOCUMENTS** (Including Author, Title, Date, Pertinent Pages, Etc.)

	"Decommissioning Nuclear Facilities", Uranium Information Center Ltd., Nuclear Issues Briefing Paper 13, August 2000.
	"Effects of Energy Deregulation on the Appropriate Method of Valuation of Generation Stations and Other Divested Property", Office of Real Property Services, Section 12.1
	"Natural Disasters And Disruption In Property Insurance Markets: The Case For Federal Reinsurance," Warfel, Spring 2000 CPC Journal, pages 30-48
	"Risk Mitigation in the Atomic Age," Kurkland, June 1993, Risk Management, Vol. 40, No. 6, pages 34-45
	"Nukes Plants Called Lesson in Safety," Knowles, October 1997, national Underwriter, Vol. 98, No. 41, pages 17-19
	"Procedural Guidance on Treatment of Insurers Under CERCLA, November 1985, United States Environmental Protection Agency, Pages 1-61

Examiner

Date Considered

Examiner: Initial if citation considered, whether or not citation is in conformance with MPEP§60 : Draw line through citation if not in conformance and not considered, include copy of this form with next communication to the patent owner.